

1 MR. KNOWLES-KELLETT: Okay. My
2 name is Bill Knowles-Kellet. I'm with the
3 Enforcement Bureau, Mr. Bond. And I don't
4 have a dog in the fight, but I have a few
5 questions.

6 THE WITNESS: Certainly.

7 JUDGE SIPPEL: I can arrange for
8 that, if you want.

9 (Laughter.)

10 MR. KNOWLES-KELLETT: It's the
11 first time I've ever been before Judge Sippel
12 without a dog in the fight.

13 (Laughter.)

14 JUDGE SIPPEL: Go ahead. You're
15 doing fine.

16 MR. KNOWLES-KELLETT: Okay.

17 BY MR. KNOWLES-KELLETT:

18 Q So, you recently switched jobs,
19 sir?

20 A I did.

21 Q Okay. Is that so that you don't
22 get to come back to hearing --

1 A (Laughing.) I must confess, that
2 was one attractive feature.

3 Q Okay. I appreciate you going
4 through slowly the economics of the sports
5 tier. I just have a few more questions about
6 it.

7 A Yes, sir.

8 Q I think, and I don't need precise
9 numbers, but we don't have anybody with
10 numbers here anyway, right? We're good.
11 Okay.

12 So, you said on the sports tier --
13 - now, could you take a look, in front of you
14 should be the channel lineup exhibit, Tennis
15 Channel 100, look at the back end.

16 JUDGE SIPPEL: Those are all the
17 programs?

18 MR. KNOWLES-KELLETT: Yes.

19 THE WITNESS: Yes, I've got it.

20 BY MR. KNOWLES-KELLETT:

21 Q Okay. So, there are roughly a
22 dozen channels on the sports tier. Is that

1 correct?

2 A Yes, sir.

3 Q Okay. And the price of these, are
4 they -- the average price of the networks is
5 somewhere in the [REDACTED] to [REDACTED] range. Is that
6 correct?

7 A Give me a moment, please.

8 JUDGE SIPPEL: Take whatever you
9 need.

10 THE WITNESS: I would say that's
11 fair. There are several services on here that
12 are either free or less than [REDACTED], but I
13 think your comment is fair.

14 BY MR. KNOWLES-KELLETT:

15 Q Okay. What I'm actually after is
16 sort of an aggregate number. Do you have an
17 aggregate number what the sum total of the
18 license fees cost per month?

19 A Aggregate cost number?

20 Q Yes, the aggregate license fees.
21 If you take the [REDACTED] for the Tennis
22 Channel, and the -- just on the sports tier.

1 A Yes, I understand your question,
2 and I'm looking at it. There are a couple on
3 here that are more expensive. I would say the
4 aggregate cost is north of [REDACTED], probably.

5 Q Okay. Between [REDACTED] and [REDACTED]
6 [REDACTED]?

7 A Yes, sir. I think that's fair.

8 Q Okay. So, and then you get
9 approximately \$5 you said for subscribers to
10 the sports tier?

11 A Yes.

12 Q And you have something over [REDACTED]
13 [REDACTED] subscribers?

14 A Yes, sir, about [REDACTED]
15 [REDACTED].

16 Q Okay. So, we're looking at [REDACTED]
17 [REDACTED] a month, and it costs you [REDACTED]
18 [REDACTED] a month, something of those lines?

19 A Yes, I think that's a good
20 approximation.

21 Q And putting this out to the
22 customers costs almost zero. Is that correct?

1 The cost beyond the license fees.

2 A Yes. There's some incremental
3 marketing costs, and promotions that are run,
4 and things of that sort. So, I'm sure there's
5 some cost.

6 Q I think the -- are you familiar
7 with the term "Consumer Surplus?"

8 A No.

9 Q Okay. One of the experts, and I
10 believe it might have been your's, described
11 consumer surplus as there are certain people
12 who are not scared by the fees for the first
13 two tiers. And what you'd really like to do
14 is get -- if they want to pay more money to
15 surf more channels, you want to give them that
16 opportunity. Do you follow my definition?

17 A I do.

18 Q Okay. And he described this type
19 of tiering as seeking to capture that consumer
20 surplus.

21 A I see.

22 Q Does that definition make sense to

1 you?

2 A Yes.

3 Q Okay. This is one of the really
4 best games you can get into as a cable
5 operator. Is that right?

6 A Well, the numbers, in terms of the
7 overall business, there's many elements to the
8 cable business, highspeed data, and video, and
9 phone. But, certainly, this, the creation of
10 this tier created an economic that did not
11 exist, as you noted, north of [REDACTED] a
12 year. And before the creation of the sports
13 tier, that money didn't exist. It wouldn't be
14 out there.

15 Q And your testimony, I think, if I
16 heard it correctly was, you heard that Time
17 Warner and Tennis Channel had sort of come up
18 with this idea, or somebody in Time Warner,
19 Tennis Channel among them, had come up with
20 this idea, and you said you want to be on that
21 wagon?

22 A That's correct.

1 Q Okay. Is it the case that Tennis
2 Channel is one of the real drivers of this
3 tier?

4 A Well, I don't know that I would go
5 that far. I think Tennis certainly serves a
6 unique niche in that there's not other tennis
7 channels, tennis content on here. But the NFL
8 is already also on here, the NFL Red Zone is
9 very popular, Gold TV is very popular.
10 There's a fair amount of college product on
11 here, college sports product, and that among
12 another group of people is very popular.

13 I would imagine that a subscriber
14 to this channel, my guess would be that most
15 subscribers to this channel have one or two
16 networks, or a handful of networks that they
17 find personally appealing, but it's probably
18 different for many of the subscribers.

19 Q Is it the case that, basically,
20 soccer and tennis, though, are your year-round
21 sports on this, so they really round it out
22 nicely?

1 A That's true. Speed Channel has
2 events, more or less, year round.

3 Q Okay.

4 JUDGE SIPPEL: What is it called,
5 Speed Channel?

6 THE WITNESS: Speed Channel.

7 JUDGE SIPPEL: What is that, like
8 racing or something?

9 THE WITNESS: Yes, among other
10 things.

11 JUDGE SIPPEL: Oh.

12 BY MR. KNOWLES-KELLETT:

13 Q So, the loss of the Tennis Channel
14 from this tier would really be expensive. Is
15 that right?

16 A Yes. If we moved the Tennis
17 Channel off of this tier, it would increase
18 the cost, as we talked about. It would also
19 reduce the attractiveness of the sports tier.

20 Q So, looking at the chart number
21 back in the white book, the chart that
22 Jennifer prepared for you --

1 A Yes.

2 Q -- in analyzing the MFN thing.

3 A Yes.

4 Q You know the chart I'm talking
5 about with the costs going across?

6 A I do.

7 Q Is there some sort of estimate --
8 that was just your out-of-pocket when you
9 lost your license, out-of-pocket for
10 additional license fees.

11 A Yes, sir.

12 Q Okay. Was there any analysis done
13 of what it would cost you on the sports tier
14 to meld the Tennis Channel?

15 A No, we didn't -- that would have
16 been a negative attribute, but we did not
17 model it.

18 Q Okay. Is that data available to
19 you?

20 A Well, it's -- that's really more
21 of a judgment call. It would be difficult to
22 precisely measure it. The license fee

1 attribute was very easy to calculate, and in
2 this case the story was quite clear.

3 The issue that you're describing,
4 the impact on the sports tier was more
5 difficult to reduce to an amount of money.
6 So, that was, perhaps -- that was another
7 element, but it wasn't included in those
8 economics.

9 Q Does anybody, like SNL Kagan, or
10 anybody do surveys about what the
11 attractiveness in decision making by people
12 regarding different channels?

13 A Yes, there is research that Kagan
14 does that asks people to assign values to
15 particular channels.

16 Q Okay.

17 A I don't know if Tennis Channel is
18 part of that research, or not. But that's one
19 data point that indicates consumer value.

20 Q Okay. So, the model -- Ken
21 Solomon's expectation through this flexible
22 agreement that you entered into in 2005, I

1 think the -- Ken Solomon's expectation was
2 sort of, if you came up with a slick product
3 that looked like the low channel numbers, that
4 that's where Tennis Channel belonged. Is that
5 correct?

6 A Well, I think, as he described it
7 to me, that the network before his arrival had
8 done these sports tier deals. They did sports
9 tier deals with Cox, they did a sports tier
10 deal with us, they did a sports tier deal with
11 Time Warner, that was the first one. They did
12 other sports tier deals. And when he came on
13 board, he thought that that was a mistake, so
14 he did not like that kind of deal. So, he said
15 the deals that he had done since he arrived
16 were not sports tier deals. So, I think the
17 distinction really was, he had a different
18 point of view about the business model of
19 Tennis Channel, and a different point of view
20 about the sports tier. So, he wanted to see
21 broader distribution.

22 Q He sort of had a different vision,

1 too, for the sports channel. Isn't it true
2 that when the sports tier channels were done,
3 Tennis Channel was a sports tier quality
4 channel. Is that correct?

5 A Well, I -- if you look at the
6 quality of the programming on the sports tier,
7 I think there's some high quality programming
8 on that tier now. But I think he was more --
9 and how I interpreted what he was saying, he
10 was saying that that didn't -- he didn't feel
11 he got enough subscribers from that. He
12 wanted more subscribers. He wanted more
13 money. He wanted more distribution.

14 Q Okay. Now, there's been a lot of
15 testimony about satellite companies, and
16 telecoms, and cable companies. And the
17 testimony has really indicated -- much of the
18 testimony focused on competition between just
19 the cable companies. Do you view the
20 competition market as just between the cable
21 companies?

22 A No, I view the competition -- for

1 Comcast, the competition would be the two
2 satellite providers, and the telecos,
3 telephone companies, and then in individual
4 markets there will also be cable overbuilders.

5 Q Okay.

6 JUDGE SIPPEL: Is that where Time
7 Warner fits in?

8 THE WITNESS: No. Time Warner is
9 not a cable overbuilder. A company like Wide
10 Open West would be a cable overbuilder.

11 JUDGE SIPPEL: Okay.

12 BY MR. KNOWLES-KELLETT:

13 Q So, a cable overbuilder is a new
14 term for me. That's -- and I'm gathering that
15 that's where a cable company comes in and puts
16 a second set of wires around to serve
17 everybody?

18 A That's correct.

19 Q Okay. So, they just attach on the
20 same poles.

21 A Yes, sir.

22 Q Okay. And the other people are

1 using other technologies to deliver their
2 product?

3 A That's correct.

4 Q Okay. Is there substantial
5 differences in what can be offered between the
6 technologies?

7 A What can be offered, or what is
8 offered?

9 Q I'll take either. Let's do one at
10 a time. What can be offered?

11 A They are different technologies.
12 The satellite providers are fully digital.
13 They have a one-way broadcast technology.
14 Terrestrial distribution providers have a two-
15 way product. For a long period of time. Those
16 services were a mixture of analog and digital,
17 so they had less bandwidth capacity than
18 satellite. That's changed in the last few
19 years. Many cable companies are converting to
20 full digital, so they're looking more like
21 satellite in that regard, with the additional
22 advantage of having two-way capability.

1 And then Verizon is really
2 technically, essentially, a cable operator.
3 They basically put in fiber optic cable. And
4 then AT&T is using a different technology to
5 provide television service over their
6 telephone lines.

7 Q Okay. Are there technical
8 limitations on AT&T?

9 A Yes, I believe so. I'm not really
10 an expert at this, but I think using the
11 telephone lines introduce some limitations in
12 terms of the amount and quality of
13 programming. But they have a robust program
14 offering, no doubt.

15 Q Okay. Is there a different focus
16 between the satellite companies and Comcast in
17 their offerings in terms of number of channels
18 and price?

19 A Yes. I think it would be generally
20 accurate to say that the satellite providers
21 have typically offered more content; though,
22 any differences have, I think, more or less

1 gone away over time.

2 I think the competitors are
3 somewhat slightly differently postured.
4 DirecTV, for instance, positions itself as a
5 premium product, I suppose one would say.
6 And, specifically, directed at sports
7 afficionados. They pay a very large price for
8 the Sunday Ticket product. They really have
9 positioned themselves as the sports choice in
10 the marketplace among all the competitors.
11 Dish Network is more of a value proposition.
12 They have lower prices, and they have a
13 different set of packages. Verizon and AT&T
14 look more commonly like traditional cable.

15 Q Okay. Do you lose customers to
16 the satellite companies because they offer
17 more channels at a lower price?

18 A Yes, that can certainly happen.

19 Q Does that happen very regularly?

20 A Yes. Well, it's a competitive
21 marketplace, so you compete based upon all
22 number of attributes, product quality, number

1 of channels, customer service, technical add-
2 ons. We also have the advantage of having a
3 highspeed data product and a telephone product
4 that the satellite providers don't have, so
5 it's a very -- it's a complex value
6 proposition for the customer. But, of course,
7 price is an important consideration in that.

8 Q So, I think your testimony was you
9 didn't have any experience with people leaving
10 Comcast for the lack of the Tennis Channel,
11 but you do have experience with people leaving
12 Comcast for the lack of a slew of channels
13 offered on the satellites.

14 A Well, in the case -- I think what
15 I said earlier, we actually had the Tennis
16 Channel. We had the right to carry Tennis
17 Channel on the sports tier, so it would have
18 been, perhaps, a different question if we were
19 not carrying the Tennis Channel at all, or if
20 that hadn't been made available to us. But we
21 had the Tennis Channel, we had the ability to
22 offer it to customers. So, we were offering

1 it to customers, the other distributors were
2 offering it to customers. But your point is
3 valid, if there were a number of channels that
4 were not available on Comcast, that could
5 certainly factor into a customer's decision.

6 Q So, I was just wondering if there
7 was any way to measure the losses, if you do
8 any -- you've indicated that you do customer
9 surveys as people leave Comcast.

10 A Yes.

11 Q How many -- what percentage of
12 people respond to those surveys?

13 A I'm really not in the know on
14 exactly how that is done, that was done in the
15 marketing group. But those -- so, I don't
16 know what the frequency, or what percentage of
17 people were touched there, but it is something
18 that Comcast tried to understand, is why
19 customers were leaving, and what was causing
20 subscriber loss, or subscriber --

21 Q So, that data didn't get fed back
22 to you?

1 A No, no, not routinely.

2 Q Okay. Just a quick couple of
3 quick asides. One is, at page 2 of your
4 testimony, there's reference to an affiliation
5 agreement. And we've had a lot of testimony
6 about Comcast favoring its affiliated
7 channels. And I just want the record to be
8 clear that those are not the same thing. Is
9 that right?


10 A Yes, that's correct.

11 Q An affiliation agreement you sign
12 whenever you agree to carry a network?

13 A Yes, sir.

14 Q And an affiliated channel as been
15 used, is a channel in which Comcast owns
16 equity.

17 A Yes, sir.

18 Q Okay. I think that the testimony
19 was that in a number of systems, Comcast
20 doesn't carry the Tennis Channel at all, some
21  percent or less. Is that correct?

22 A Yes.

1 Q Is there a technical reason for
2 that?

3 A Probably, they would probably be
4 smaller systems that don't even have a sports
5 tier, don't have the channel capacity for the
6 sports tier.

7 Q The only reason not to have a
8 sports tier would be channel capacity. Right?

9 A I think so, yes.

10 Q Because otherwise it's just free
11 money.

12 A Yes.

13 Q Okay. And in the systems where
14 Comcast carries Sports Tier Jacksonville,
15 systems where Comcast carries sports tier on
16 the D1 level, or the D0 level, if there are
17 any of those. I don't know if there was any
18 testimony to that. Is that because of
19 competition in that marketplace?

20 A I think that was a judgment that
21 the Jacksonville system had made at the time,
22 that because it's down in Florida, tennis is

1 popular in Florida, that Tennis Channel would
2 be a nice product for the D1 level of service.

3 Q And the reason to do that, there
4 would be two reasons as I understand. One
5 would be customer satisfaction. Is that
6 correct?

7 A Yes, sir.

8 Q So, that's retaining customers,
9 and obtaining customers?

10 A Yes.

11 Q And the other reason would be
12 because Dish and other competitor -- Dish,
13 DirecTV, or other competitors are offering it
14 on a low price value package, and you want to
15 compete with those packages. Correct?

16 A Yes. I don't know that Tennis was
17 necessarily on a lower priced tier, but it was
18 really -- I think it was probably more about
19 the first point, just a generalized customer
20 appeal, or customer satisfaction, much in the
21 way that you might find Hispanic programming
22 more broadly distributed in the Miami system

1 than you would in the Portland, Oregon system,
2 or you might found outdoor-type programming,
3 hunting and fishing programming more generally
4 distributed in Georgia than you might in New
5 Jersey.

6 Q But the reason to do that is to
7 add value to your package, and market it in
8 that market. Right?

9 A Yes, sir.

10 Q If you've got a lot of tennis
11 players, and you've got to compete with other
12 people, you want a value package to market.

13 A Yes.

14 Q How much interaction do you have
15 with Mr. Rigdon?

16 A Greg Rigdon?

17 Q Greg Rigdon.

18 A Right now?

19 Q Yes.

20 A I interact with him right now
21 relating to the distribution side of the NBC
22 assets.

1 Q You have to sell him your system.

2 A Networks.

3 Q Networks.

4 A Yes, sir.

5 Q I'm sorry. Thank you for the

6 correction.

7 A Yes.

8 Q My question was garbage without

9 the correction.

10 (Laughter.)

11 BY MR. KNOWLES-KELLETT:

12 Q So, do you talk to him every day?

13 A No. No, I -- go ahead.

14 Q How much influence do you have on
15 helping him do his job?

16 A None.

17 Q He doesn't talk to you for advice
18 on how to do it?

19 A No.

20 Q Has he ever?

21 A No, when he first started when we
22 were transitioning before I had left Comcast,

1 we had a number of conversations about
 2 organizational issues, because he was coming
 3 into my organization, and he wanted to talk
 4 about my opinions of the employees in the
 5 group, and how he should organize going
 6 forward, and any changes that would be made.
 7 And that happened really on a transitional
 8 basis. But my contact with him now really is
 9 relating to the NBC products.

10 Q Okay. There was testimony I think
 11 both from you and from Mr. Rigdon that ad
 12 avails have very limited value because of your
 13 inventory of ad minutes.

14 A Yes.

15 Q Do you ever -- is ever there a
 16 part of a package that doesn't come with ad
 17 avails?

18 A Other than the broadcast networks,
 19 I think we have ad avails on all the cable
 20 channels that we carry.

21 Q Is there a reason for that?

22 A It's a standard industry practice.

1 I don't know when it started, probably from
2 the beginning back in the 1980s. But it has
3 been standard industry practice for cable
4 channels to give two to three minutes an hour
5 of advertising time to the distributors.

6 Q Does that allow you to promote
7 your other programming during -- and reach the
8 -- say you have big programming on Versus, it
9 allows you to reach all the Tennis Channel
10 viewers to get them to watch your marquis
11 programming on Versus?

12 A Theoretically, that's not how that
13 inventory is used.

14 Q Theoretically it's not?

15 A Yes.

16 Q What do you mean by
17 "theoretically?"

18 A Well, what you've described, I
19 think theoretically could be done, but that
20 isn't how that inventory is used.

21 Q Okay. Now, I understand. Could
22 Versus buy that from -- would there be a

1 mechanism how Versus could buy the ad avails?

2 A I'm not really an ad sales person,
3 but, generally, what happens is that
4 advertising is sold by a group within Comcast,
5 and they typically sell large packages of
6 advertising across networks, and in certain
7 spot markets. It's a very complicated
8 business. I don't know if that thing you're
9 describing, could Versus buy advertising just
10 on Tennis Channel, if we insert it on Tennis
11 Channel. First off, I don't think we do
12 insert. I don't think Comcast does even insert
13 on Tennis Channel, so it wouldn't even be
14 technically possible.

15 Even though we have -- if I can
16 back up. Even though we had the ad minutes,
17 we have the right to insert ad minutes on
18 Tennis Channel. I doubt we've actually
19 invested in the equipment to do the insertion.
20 So, I don't think technically we could even
21 put advertising on Tennis in our systems.

22 Q Nobody has lost their job for

1 that?

2 A It's really -- that's very common.
3 We have hundreds of channels, and only a
4 certain percentage of them do we actually
5 insert on. We have so much more inventory
6 than we can sell, so you only invest in that
7 insertion equipment among a certain core
8 number of channels.

9 Q Okay. Do you have any -- there
10 were a number of documents discussing the
11 Versus idea to compete for U.S. Open rights.
12 Do you recall those documents?

13 A I do.

14 Q Did you have any involvement with
15 the negotiation for the U.S. Open rights?

16 A No.

17 Q Did you have any discussions with
18 the programming side regarding competing for
19 U.S. Open rights?

20 A No, other than the email I was on,
21 I didn't.

22 Q You weren't at any meetings?

1 A No, I don't recall any discussion
2 of this.

3 MR. KNOWLES-KELLETT: That's all I
4 have, Your Honor.

5 JUDGE SIPPEL: Thank you.

6 MR. KNOWLES-KELLETT: Thank you.

7 JUDGE SIPPEL: Does anybody want
8 to pick up on that?

9 MR. CARROLL: I have only two
10 questions.

11 JUDGE SIPPEL: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. CARROLL:

14 Q Do you still have --

15 MR. CARROLL: May I, Your Honor?

16 JUDGE SIPPEL: Yes, sir, please.

17 MR. CARROLL: Thank you.

18 BY MR. CARROLL:

19 Q Mr. Bond, I think we're almost
20 done. Do you have the channel guide exhibit?
21 Once again, I think it's Tennis Channel
22 Exhibit 100.

1 A I do.

2 Q And you were just being asked once
3 again about the sports tier channel numbers
4 that are in the 700s there.

5 A Yes.

6 Q Mr. Phillips asked you about the
7 Tennis Channel channel number, which is 735.
8 Correct?

9 A Yes, sir.

10 Q So, here are my questions. First,
11 your contract with Tennis Channel, existing
12 contract that dates back to 2005, does it have
13 any provision in it that gives Tennis Channel
14 the right to any particular channel number?

15 A No.

16 Q And over all the years of the
17 agreement while you were on the Comcast cable
18 side, was there ever a demand Tennis Channel
19 made to change its channel number?

20 A No.

21 MR. CARROLL: No further
22 questions, Your Honor.

1 JUDGE SIPPEL: All right.

2 MR. PHILLIPS: I've just got one,
3 Your Honor.

4 JUDGE SIPPEL: Yes, Mr. Phillips,
5 go ahead.

6 RECROSS-EXAMINATION

7 BY MR. PHILLIPS:

8 Q Mr. Bond, NFL network that you
9 mentioned in the sports tier --

10 A Yes.

11 Q -- that's dual illuminated, isn't
12 it?

13 A Yes.

14 Q So, it's also found down at like
15 Channel 248, something -- 246.

16 A Yes.

17 Q And at Channel 180?

18 A There it is. That's the HD.

19 Q Channel 180 on the digital
20 starter? Page 5 of 9.

21 A Thank you. Yes.

22 Q Okay. And dual illuminated means

1 that it's carried both in the sports tier, and
2 on the lower more broadly distributed tier.
3 Right?

4 A Yes.

5 MR. PHILLIPS: Thank you.

6 JUDGE SIPPEL: Is there anybody?
7 I just want to ask, just for identification.
8 I'm just looking for the -- identify a person,
9 please, for me. Ann Micka?

10 THE WITNESS: Ann Micka works for
11 Joe Donnelly.

12 JUDGE SIPPEL: All right. And is
13 she, basically, a numbers person?

14 THE WITNESS: I believe so.

15 JUDGE SIPPEL: That's all I have.
16 We're all set? We may not see Mr. Bond for
17 another two years.

18 (Laughter.)

19 THE WITNESS: Well, hopefully, in
20 more congenial circumstances, that would be
21 nice.

22 JUDGE SIPPEL: You're excused as a

1 witness. Thank you very much.

2 THE WITNESS: Thank you, sir.

3 JUDGE SIPPEL: Have a good trip
4 back.

5 THE WITNESS: Thank you, Your
6 Honor.

7 JUDGE SIPPEL: We're going to meet
8 at 9:30 on Monday. I guess that's it. Let's
9 go off the record.

10 (Whereupon, the proceedings went
11 off the record at 5:42 p.m.)
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